IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Contempt Petition No. 234 of 2004

Shakeel Ahamed
S/o Shri Mustaq Husain,
R/o Village Niwar Mandi,
P.O. Jasupur,
District Udham Singh Nagar.

…… Petitioner

Versus

1. Shri Kunwar Singh Rawat
   Addl. District Education Officer /
   B.S.A. Haridwar.
2. Satya Narayan,
   Addl. District Education Officer /
   B.S.A. Udham Singh Nagar.

…….. Respondents

Mr. Dinesh Gahatori, learned counsel for the petitioner.
Mr. R.C. Arya, learned Standing Counsel for respondents.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the petitioner and learned standing counsel for the State.

2) The petitioner has filed this petition complaining wilful disobedience on the part of the respondents of the order dated 02.08.2003 and 15.09.2003, passed in Writ Petition No. 794 (S/B) of 2002 and W.P. No. 201 (M/B) of 2003, respectively. Order dated 15th September, 2003, in which the present applicant was the petitioner, Only directs that the controversy raised in the applicant's petition has already been decided in Writ Petition No. 794 (S/B) of 2002; Azad Ahamad and 11 others Vs. State of Uttaranchal and another. The operative portion of the said Writ Petition No. 794 (S/B) of 2002, reads as under:

> ***"The petition, therefore, succeed partly and a writ in the nature of mandamus directing and commanding the respondents to recognize the certificate of Moallim-E-Urdu equivalent to B.T.C. (Urdu) for the recruitment against the***

appropriate posts of petitioners who have obtained certificate prior to 11.08.1997."

3) Paragraph Nos. 6 and 7 of the counter affidavit filed by respondent No. 2, reporting compliance of the aforesaid order, contains following statements:

6. "That in pursuance of the orders passed by the Hoh'ble Court the State Govt. passed the Govt. Order on 27th January 2004 by which it was directed that compliance of the judgment and order passed in writ petition No. 794 (S/B) of 2002 be made. It is submitted that in pursuance of the Govt. Order dated 27th January, 2004 an advertisement, which was issued on 17th February 2004, the condition that the persons who have obtained Moallim-E-Urdu before 1997 were held eligible to apply and their certificate of Moallim-E-Urdu was granted equivalence to B.T.C. (Urdu). True photocopy of the Corrigendum, which was issued with reference to the advertisement dated 17th February, 2004 is being filed herewith and is marked as Annexure No. C.A. 1, to this affidavit.

7. That in pursuance of the aforesaid advertisement dated 17th February, 2004 various applications were received alongwith the application of the petitioner and after sorting out the said applications 203 persons were called for the written examination to be held on 2nd July, 2004. It is submitted that the name of the petitioner Shakil Ahmed finds place at Sl. No. 64 of the said list and the petitioner has been issued a call letter meaning thereby that the certificate obtained by him of Moallim-E-Urdu prior to 11th August 1997 has been recognized by the respondents. True photocopy of the list in which the name of the petitioner finds place at Sl. No. 64 is being filed herewith and is marked as Annexure No. C.A. 2, to this affidavit. It is pertinent to

mention here that the written examination scheduled to be held on 2nd July 2004 was postponed due to some unavoidable circumstances and as and when the written examination is taken the petitioner can appear as the candidate."

In view of above mentioned averment made in the counter affidavit, there is nothing which remains to be complied with on the part of the respondents.

4) Learned counsel for the petitioner drew attention of this Court to the supplementary affidavit filed by him with urgency application No. 2196 of 2006 and argued that a Govt. Order dated 20th January, 2006 has been issued regarding the appointment of the Urdu teachers and it is contended that the direction is not being applied to all the appropriate posts. This Court is of the opinion, that Govt. Order dated 20th January, 2006 doesn't violate the direction of the Court as it indicates that the appointments are to be made keeping in view the above directions of the Court. The said Govt. Order further directs that amendment be made in the Basic Teachers Service Rules, 1981.

5) In the circumstances, the petitioner may have a fresh cause of action, but as far as the contempt of Court is concerned, there does not appear to be a wilful disobedience on the part of the respondents. Accordingly, the contempt petition is liable to be dismissed.

6) For the reasons, as discussed above, the contempt petition is dismissed. Notices issued against the respondents are discharged. (The urgency application No. 2196 of 2006 also stands disposed of)

(Prafulla C. Pant, J.)

Dt.: 3rd March, 2006
H.Negi